

16.1 PILBARA UNDERGROUND POWER PROJECT – STATUS OF DEBT COLLECTION

File No:	FM.1
Responsible Executive Officer:	Director Corporate Service
Reporting Author:	Manager Financial Services/CFO
Date of Report:	16 April 2015
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s)	Pro Forma Final Demand Letter from CS Legal to Debtor

PURPOSE

To update Council on the status of service charge collections for the Pilbara Underground Power Project (PUPP).

BACKGROUND

On the 23 July 2014 Council issued 7,968 service charge invoices to property owners within the PUPP scope area. The invoices were initially payable by the 23 August 2014 with residents given the option to pay up-front in full or over four years.

After considering concerns of some members of the community, Council unanimously resolved to:

- Extend the interest free period for the payment of PUPP contributions to the 23 November 2014;
- Offer extended payment terms for larger bills (up to 10 years);
- Grant further concessions to particular groups and organisations;
- Provide individuals/organisations that were/are experiencing financial hardship the ability to negotiate individual payment plans; and
- Reduce the rate of interest on payment instalment plans.

The majority of property owners within the PUPP scope area have now made part or full payment. Some key statistics relating to bill payments as at 11 April 2015 are listed below:

- **95%** of properties levied a Pilbara Underground Power service charge have made a payment (7,394 payments)
- **72%** of properties who have made payments have paid up-front, in full (Total 5,297)
- **28%** of property owners who have made payments to PUPP have selected the instalment option (Total 2,097)
- **2%** (Total of 160) of property owners have elected to pay their PUPP contribution over 10 years
- **1.5%** (Total of 124) of property owners have entered into individual payment plans with Council/CS Legal

While the vast majority of property owners have made payments, some property owners have made no payments in the nine (9) month period since the original invoices were distributed.

On 27 January 2015, 601 properties were referred to Council's debt service provider CS Legal for the collection of overdue PUPP charges. The total of these outstanding invoices was \$3,167,198. CS Legal issued an initial Letter of Demand 28 January 2015. CS Legal commenced attempting to contact property owners (via phone calls, emails, and additional letters) who they had yet not received responses from on 23 February 2015.

Collection activities undertaken by CS Legal have resulted in payments being received from a further 293 properties (140 in full and 153 via payment arrangements) totalling \$724,741. A further \$642,437 has been committed to by property owners who have entered into payment arrangements.

The remaining 308 properties referred to CS Legal have a total of \$1,800,020 outstanding. No payment has been received for any of these properties. Of these, 58 properties are subject to recently agreed payment arrangements, mortgagee in possession or bankruptcy proceedings. These properties are currently not being considered for legal proceedings. There are now 250 properties that are subject to debt collection processes. The table below illustrates the value of these debts:

Outstanding	No.	%
\$100 - \$150K	2	0.8
\$50 - \$100K	1	0.4
\$25 - \$50K	1	0.4
\$15 - \$25K	19	7.6
\$10 - \$15K	13	5.2
\$5 - \$10K	3	1.2
\$1 - \$5K	131	52.4
<\$1K	80	32.0
TOTAL	250	100.0

The usual next step in the Debt Collection Process is to refer to debts to relevant court/s under 'General Procedures Claims.' This process involves the property owner being served court claim to respond to the debt with 14 days. If the claim is not contested, a default judgement is made by the court. The default judgement is a court ruling on the payment of the debt.

While the General Procedure Claim process is the standard ‘next step’ in the debt collection process, Council may wish to consider sending a further Final Letter of Demand prior to initiating these proceedings. It should be noted a Final Demand Letter has already been sent to debtors by CS Legal that clearly states:

We are now instructed to demand final payment of the PUPP and accrued interest within 14 days of the date hereof, failing which, we have instructions to commence legal proceedings for the collection of the PUPP, without further reference to you.

In addition to this letter numerous letters, reminders, phone calls and/or emails have been made to debtors.

LEVEL OF SIGNIFICANCE

In accordance with Council Policy CE-8 Significant Decision Making Policy, this matter is considered to be of moderate significance in terms of Council’s ability to perform its role.

COUNCILLOR/OFFICER CONSULTATION

Councillors have discussed this matter formally at the various Council meetings and Briefing sessions.

COMMUNITY CONSULTATION

There has been substantial community consultation and comment regarding the options available to property owners to pay their contributions towards the PUPP project.

Significant consultation has occurred by Council and Council’s debt service provider since the charges first became due and payable in August 2014

STATUTORY IMPLICATIONS

Section 6.56 (1) of the *Local Government Act 1995* states:

Rates or service charges recoverable in court

If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.

POLICY IMPLICATIONS

Council Policy *CF08 Debt Collection Policy* details the Council’s standard practices in relation to Debt Collection. In line with Council direction, the process used for the collection of PUPP contributions has been significantly more lenient than the policy dictates. For example:

- Under CF08, interest on outstanding debts usually starts accruing after 40 days. In PUPP, interest did not start accruing until after 123 days of the date of the invoice
- The policy indicates that Debt Recovery action on unpaid debts usually commences 60 days from the date of the initial invoice. With PUPP, debt recovery action did not commence for 189 days.

FINANCIAL IMPLICATIONS

Non collection of outstanding accounts reduces Council’s ability to meet the City’s obligation to provide a 25 per cent community contribution to the Pilbara Underground Power Project.

There is no nett cost to Council or ratepayers of continuing with Debt Collection processes as all debt collection costs are borne by the debtor, not the City.

Outstanding debtors to Council are incurring increasing costs through penalty interest accruing on the debt plus the cost of debt collection. Property owners who have made partial payments through instalment plans or individually tailored plans are not incurring debt collection costs and are paying a significantly lower rate of interest.

STRATEGIC IMPLICATIONS

This item is relevant with the City's approved Strategic Community Plan 2012 - 2022 and Corporate Business Plan 2012 - 2016. In particular the Operational Plan 2014-2015 provides for this activity:

Our Program:	4.d.1.5	Ensure financial accountability.
Our Services:	4.d.1.5.1	Ensure timely recognition and collection of revenues.

RISK MANAGEMENT CONSIDERATIONS

The level of risk is considered to be High to the City in terms of Financial and Reputational risks.

IMPACT ON CAPACITY

There is no impact on capacity or resourcing to carry out the Officer's recommendation. Collection activities are outsourced.

RELEVANT PRECEDENTS

Collection of outstanding property debts is a normal part of Council activities.

VOTING REQUIREMENTS

Simple Majority.

OPTIONS:

Option 1

As per Officer's recommendation.

Option 2

That Council by SIMPLE Majority pursuant to Section 6.56 of the *Local Government Act 1995* RESOLVES to commence legal proceedings to recover due and payable Pilbara Underground Power service charges, as well as the costs of proceedings, in line with Council Policy CF08 Debt Collection Policy.

CONCLUSION

The vast majority of property owners within the PUPP scope area have now paid part or all of their PUPP contribution. Council has provided significant opportunity for property owners to contact Council Officers and Council's debt service provider to enter into alternative payment arrangements for Pilbara Underground Power service charges due and payable.

While standard practice would dictate that the small number of property owners who have yet to pay should be referred to legal action, it is recommended that a Final Letter of Demand be sent to these ratepayers prior to undertaking this action.

OFFICER'S RECOMMENDATION

That Council by SIMPLE Majority pursuant to Section 6.56 of the *Local Government Act 1995* RESOLVES to:

- 1. ISSUE a Final Letter of Demand (payment within 7 days) to property owners with due and payable Pilbara Underground Power service charge charges as the final opportunity to avoid legal proceedings.**
- 2. ADVISE CS Legal to commence legal proceedings on due and payable Pilbara Underground Power service charges, as well as the costs of proceedings, on property owners who fail to respond by way of payment (either in full, in approved instalments or via an agreed payment plan) to the Final Letter of Demand outlined in Item 1 above.**

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17 April 2015

Property Ref: «FILCLIREF1»
 Our Ref: «FILCODE»
 Partner: Richard Wensley
 Contact: Jason O'Meara

«DTRFULLNAME_1» «DTRFULLNAME_2» «DTRFULLNAME_3» «DTRFULLNAME_4»
 «DTRPOADDRBLOCK_1»

BY POST

Dear Sir / Madam,

City of Karratha – Overdue PUPP Service Charges
Property: «FILPROPADRFULL» (Prop No. «FILCLIREF1»)

We act for the City of Karratha.

We are instructed by our client that you have not paid Pilbara Underground Power Project service charges ("PUPP") in respect of the Property in the sum of \$«FILTOTOS».

We are now instructed to demand payment of the PUPP and accrued interest incurred within fourteen (14) days of the date hereof, failing which, we have instructions to commence legal proceedings for the recovery of the PUPP, without further reference to you.

Your payment can be made by any of the methods contained below.

Please contact us on (08) 9476 4499 for advice on the current amount owing inclusive of interest.

Yours faithfully

CS LEGAL

Payment methods:

PAYMENT NUMBER	«FILCLIREF2»	AMOUNT DUE
NAME	«DTRFULLNAME_1» «DTRFULLNAME_2» «DTRFULLNAME_3» «DTRFULLNAME_4»	Date: Within 14 Days Amount: \$«FILTOTOS»
PROPERTY ADDRESS	«FILPROPADRFULL»	Internet Visit www.karratha.wa.gov.au and follow the links to pay with MasterCard or Visa. Merchant fee may apply
DIRECT DEBIT	Direct Debit Contact CS Legal on (08) 9476 4499	By Phone Call (08) 9476 4499 to pay with MasterCard or Visa
BPAY	Contact your Bank or Financial Institution to arrange payment. Biller Code: 57356 Ref: «FILCLIREF2»	By Mail Cheques or money orders to be made payable to City of Karratha and posted to CS Legal, PO Box 8259, Perth BC WA 6849. Please include property number.

Bunbury

10A Ommanney St, Bunbury WA 6230
 PO Box 1599, Bunbury WA 6231

Fremantle

Suite 29 (1st Flr) 35 William St,
 Fremantle Malls, Fremantle WA 6160
 PO Box 1234, Fremantle WA 6959

Joondalup

7/80 Grand Blvd, Joondalup WA 6027
 PO Box 741, Joondalup DC WA 6919

Perth

1/234 Pier St, Perth WA 6000
 PO Box 8259, Perth BC WA 6849

T: (08) 9721 2022
 F: (08) 9792 5059

T: (08) 9335 6686
 F: (08) 9336 6827

T: (08) 9301 4422
 F: (08) 9301 1000

T: (08) 9476 4499
 F: (08) 9325 4174